

SENATE MOTION

MR. PRESIDENT:

I move that Engrossed House Bill 1004 be amended to read as follows:

- 1 Page 66, delete lines 28 through 37, begin a new paragraph and
- 2 insert:
- 3 "SECTION 46. IC 6-3-1-3.5, AS AMENDED BY P.L.14-2000,
- 4 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JANUARY 1, 2004]: Sec. 3.5. When used in IC 6-3, the term "adjusted
- 6 gross income" shall mean the following:
- 7 (a) ~~In the case of all individuals, "adjusted gross income" (as~~
- 8 ~~defined in Section 62 of the Internal Revenue Code); modified as~~
- 9 ~~follows:~~
- 10 (1) ~~Subtract income that is exempt from taxation under IC 6-3 by~~
- 11 ~~the Constitution and statutes of the United States;~~
- 12 (2) ~~Add an amount equal to any deduction or deductions allowed~~
- 13 ~~or allowable pursuant to Section 62 of the Internal Revenue Code~~
- 14 ~~for taxes based on or measured by income and levied at the state~~
- 15 ~~level by any state of the United States;~~
- 16 (3) ~~Subtract one thousand dollars (\$1,000); or in the case of a~~
- 17 ~~joint return filed by a husband and wife; subtract for each spouse~~
- 18 ~~one thousand dollars (\$1,000);~~
- 19 (4) ~~Subtract one thousand dollars (\$1,000) for:~~
- 20 (A) ~~each of the exemptions provided by Section 151(c) of the~~
- 21 ~~Internal Revenue Code;~~
- 22 (B) ~~each additional amount allowable under Section 63(f) of~~
- 23 ~~the Internal Revenue Code; and~~
- 24 (C) ~~the spouse of the taxpayer if a separate return is made by~~
- 25 ~~the taxpayer and if the spouse, for the calendar year in which~~
- 26 ~~the taxable year of the taxpayer begins; has no gross income~~
- 27 ~~and is not the dependent of another taxpayer;~~
- 28 (5) ~~Subtract:~~
- 29 (A) ~~one thousand five hundred dollars (\$1,500) for each of the~~
- 30 ~~exemptions allowed under Section 151(c)(1)(B) of the Internal~~
- 31 ~~Revenue Code for taxable years beginning after December 31;~~

- 1 1996; and
- 2 (B) five hundred dollars (\$500) for each additional amount
- 3 allowable under Section 63(f)(1) of the Internal Revenue Code
- 4 if the adjusted gross income of the taxpayer, or the taxpayer
- 5 and the taxpayer's spouse in the case of a joint return, is less
- 6 than forty thousand dollars (\$40,000).
- 7 This amount is in addition to the amount subtracted under
- 8 subdivision (4):
- 9 (6) Subtract an amount equal to the lesser of:
- 10 (A) that part of the individual's adjusted gross income (as
- 11 defined in Section 62 of the Internal Revenue Code) for that
- 12 taxable year that is subject to a tax that is imposed by a
- 13 political subdivision of another state and that is imposed on or
- 14 measured by income; or
- 15 (B) two thousand dollars (\$2,000):
- 16 (7) Add an amount equal to the total capital gain portion of a
- 17 lump sum distribution (as defined in Section 402(e)(4)(D) of the
- 18 Internal Revenue Code) if the lump sum distribution is received
- 19 by the individual during the taxable year and if the capital gain
- 20 portion of the distribution is taxed in the manner provided in
- 21 Section 402 of the Internal Revenue Code:
- 22 (8) Subtract any amounts included in federal adjusted gross
- 23 income under Internal Revenue Code Section 111 as a recovery
- 24 of items previously deducted as an itemized deduction from
- 25 adjusted gross income:
- 26 (9) Subtract any amounts included in federal adjusted gross
- 27 income under the Internal Revenue Code which amounts were
- 28 received by the individual as supplemental railroad retirement
- 29 annuities under 45 U.S.C. 231 and which are not deductible under
- 30 subdivision (1):
- 31 (10) Add an amount equal to the deduction allowed under Section
- 32 221 of the Internal Revenue Code for married couples filing joint
- 33 returns if the taxable year began before January 1, 1987:
- 34 (11) Add an amount equal to the interest excluded from federal
- 35 gross income by the individual for the taxable year under Section
- 36 128 of the Internal Revenue Code if the taxable year began before
- 37 January 1, 1985:
- 38 (12) Subtract an amount equal to the amount of federal Social
- 39 Security and Railroad Retirement benefits included in a taxpayer's
- 40 federal gross income by Section 86 of the Internal Revenue Code:
- 41 (13) In the case of a nonresident taxpayer or a resident taxpayer
- 42 residing in Indiana for a period of less than the taxpayer's entire
- 43 taxable year, the total amount of the deductions allowed pursuant
- 44 to subdivisions (3), (4), (5), and (6) shall be reduced to an amount
- 45 which bears the same ratio to the total as the taxpayer's income
- 46 taxable in Indiana bears to the taxpayer's total income:
- 47 (14) In the case of an individual who is a recipient of assistance

under IC 12-10-6-1, IC 12-10-6-2, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(b) (a) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under IC 6-3 by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(c) (b) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) reduced by income that is exempt from taxation under IC 6-3 by the Constitution and statutes of the United States.

SECTION 47. IC 6-3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. (a) Each taxable year **ending before January 1, 2004**, a tax at the rate of three and ~~four-tenths six-tenths~~ percent (~~3.4%~~) (**3.6%**) of adjusted gross income is imposed upon the adjusted gross income of every resident person and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.

(b) **Each taxable year beginning after December 31, 2003, a tax is imposed on the income of every resident person. The amount of the tax is equal to the taxpayer's total federal income tax liability**

for the taxable year, after the application of all credits claimed by the taxpayer on the taxpayer's federal income tax return, multiplied by the rate determined under section 1.5 of this chapter.

(c) Each taxable year beginning after December 31, 2003, a tax is imposed on the income of every nonresident person that has income derived from sources within Indiana. The amount of the tax is equal to the taxpayer's apportioned total federal income tax liability for the taxable year, after the application of all credits claimed by the taxpayer on the taxpayer's federal income tax return, multiplied by the rate determined under section 1.5 of this chapter. For purposes of this article, the apportioned total federal income tax liability for a nonresident person is equal to the result of:

(1) the nonresident person's total federal income tax liability; multiplied by

(2) the result of:

(A) that part of the nonresident person's federal adjusted gross income derived from sources within Indiana; divided by

(B) the nonresident person's total federal adjusted gross income.

(c) Each taxable year, a tax at the rate of ~~three and four-tenths eight~~ **and one half** percent (~~3.4%~~) **(8.5%)** of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation.

SECTION 48. IC 6-3-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 1.5. (a) This section applies to the biennial budget adopted in 2003 and every two (2) years thereafter.**

(b) The general assembly shall include in each biennial budget a specific determination of the total amount of taxes, taking into account all other available sources of revenue, that must be imposed on the income of resident and nonresident persons under IC 6-3-2-1 during each of the next two (2) taxable years in order to provide sufficient revenue to cover appropriations made for each of the two (2) state fiscal years covered by the biennial budget.

(c) Based upon the determination made for each taxable year under subsection (b), and not later than August 1 following the adoption of the biennial budget, the department shall compute the tax rate or rates required for each of the next two (2) taxable years in order to generate the amounts described in subsection (b) for each of the two (2) state fiscal years covered by the biennial budget. The department may establish different rates for each of the next two (2) taxable years, but the same rate must apply to both resident and nonresident persons."

Page 67, between lines 23 and 24, begin a new paragraph and insert:
"SECTION 52. IC 6-3-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. Returns with

- 1 respect to taxes imposed by this act shall be made by the following:
- 2 (1) Every resident individual having for the taxable year ~~gross~~
- 3 ~~income in an amount greater than the modifications provided~~
- 4 ~~under IC 6-3-1-3.5(a)(3) and IC 6-3-1-3.5(a)(4):~~ **federal income**
- 5 **tax liability.**
- 6 (2) Every nonresident individual having for the taxable year
- 7 **federal income tax liability and** any gross income from sources
- 8 within the state of Indiana except for a team member (as defined
- 9 in IC 6-3-2-2.7) who is covered by a composite return filed under
- 10 IC 6-3-2-2.7.
- 11 (3) Every corporation having for the taxable year any gross
- 12 income from sources within the state of Indiana.
- 13 (4) Every resident estate having for the taxable year any gross
- 14 income from sources within the state of Indiana.
- 15 (5) Every resident trust having for the taxable year any gross
- 16 income from sources within the state of Indiana.
- 17 (6) Every nonresident estate having for the taxable year any gross
- 18 income from sources within the state of Indiana.
- 19 (7) Every nonresident trust having for the taxable year any gross
- 20 income from sources within the state of Indiana."
- 21 Page 157, between lines 11 and 12, begin a new paragraph and
- 22 insert:
- 23 "SECTION 158. [EFFECTIVE JANUARY 1, 2004] **IC 6-3-1-3.5,**
- 24 **as amended by this act, applies only to taxable years beginning**
- 25 **after December 31, 2003. IC 6-3-2-1, as amended by this act,**
- 26 **applies only to taxable years beginning after December 31, 2002."**
- 27 Renumber all SECTIONS consecutively.
- (Reference is to EHB 1004 as printed February 22, 2002.)

Senator HUME